



## 紀律研訊個案－在促成交易的過程中誤導準買家

持牌人參與物業銷售活動時，必須秉持誠實的態度向客戶提供服務，不可作出任何誤導準買家的陳述，否則可能會被監管局紀律處分。

一名準買家委託一名持牌人為其心儀的二手住宅單位進行洽購。不久後，該持牌人向準買家表示該單位已經售出，轉為向她推銷一個一手住宅樓盤。結果該準買家在該持牌人安排下簽署購買該一手住宅樓盤單位的臨時買賣合約。

其後，該準買家通過另一位持牌人得悉其本來心儀的二手住宅單位其實並未售出。該準買家遂向監管局投訴安排她購買一手樓的持牌人。

監管局紀律委員會認為，該持牌人未有秉持誠實的態度向客戶提供服務，因而沒有遵守《操守守則》第3.3.1段所述「地產代理和營業員在經營過程中，必須秉持誠實、忠誠和嚴正的態度向客戶提供服務。他們應保障客戶在地產交易中不因欺詐、失實陳述或不合專業操守的行為而受損」的守則。紀律委員會決定譴責該名持牌人及吊銷其牌照兩個月，並在其牌照上附加條件，要求他在12個月內取得持續專業進修計劃下的12個核心科目學分。

## Disciplinary hearing case – Making misrepresentation when procuring a transaction

When participating in property sales activities, licensees must provide services to clients in an honest manner. They must not make any misrepresentation that may mislead prospective purchasers. Otherwise they may be subject to disciplinary action by the EAA.

Interested in a second-hand residential unit, a prospective purchaser appointed a licensee to approach the vendor concerned. Later, the licensee told the prospective purchaser that the unit had been sold and recommended a first-hand residential development to her instead. The licensee also arranged for the prospective to sign a provisional agreement for sale and purchase of a property in the development.

The prospective purchaser later discovered through another licensee that the second-hand unit that she was originally interested in had never been sold. She then lodged a complaint with the EAA against the licensee who persuaded her to buy the first-hand residential property.

The EAA Disciplinary Committee was of the view that the licensee did not provide a service to his client in an honest manner. He therefore did not comply with paragraph 3.3.1 of the Code of Ethics, which states that “estate agents and salespersons shall, in the course of business, provide services to clients with honesty, fidelity and integrity. They should protect their clients against fraud, misrepresentation or any unethical practices in connection with real estate transactions”. The Disciplinary Committee reprimanded the licensee and suspended his licence for two months. A condition was also attached to his licence, requiring the licensee to obtain 12 points in the core subjects of the CPD Scheme in 12 months.



## 紀律研訊個案－發放並非由賣方提供的一手住宅物業資料

有關銷售一手住宅物業的操守的執業通告(編號13-04(CR))載列持牌人向準買家提供物業資料的指引。持牌人必須留意並遵守指引，否則可能會被監管局紀律處分。

一名持牌人在社交網站上發出一則有關某一手住宅樓盤的廣告，並列出樓盤單位的價格，但賣方尚未公布該樓盤的價單。

監管局紀律委員會認為該持牌人違反了執業通告中的指引，包括：向準買家提供物業的相關資料時，須以由賣方提供的售樓說明書及文件所載的資料為準；採取一切合理步驟及盡一切應盡的努力核實有關資料；不得作出任何可能誤導準買家的陳述；以及除地產代理公司外，其他持牌人不得發出任何廣告或宣傳物品。

因此，該持牌人沒有遵守《操守守則》的第3.2.1段：地產代理和營業員應熟悉並必須在執業時遵守《地產代理條例》、其附屬法例、《操守守則》，以及由監管局不時發布的所有其他指引。該名持牌人被譴責及罰款港幣5,000元；同時其牌照亦被附加條件，要求他在12個月內取得持續專業進修計劃下核心科目的12個學分。



## Disciplinary hearing case – Disseminating information of first-hand residential properties not provided by the vendor

The Practice Circular (No. 13-04 (CR)) on the conduct of licensees in the first sale of residential properties sets out guidelines regarding the provision of property information to prospective purchasers. Licensees must observe and comply with such guidelines. Failure to do so will be subject to disciplinary action by the EAA.

A licensee posted an advertisement on a social networking website, listing out prices of properties of a first-hand residential development before the vendor released the price list.

The EAA Disciplinary Committee was of the view that the licensee was in breach of the relevant Circular. The Circular stipulates that licensees must provide information to prospective purchasers only on the basis of the latest information contained in the sales brochure and documents prepared and provided by the vendor, and only after they have taken all reasonable steps and exercised all due diligence to verify the information. Licensees must not make any representation that may mislead prospective purchasers and no advertisement shall be issued by licensees other than estate agency companies.

Therefore, the licensee failed to comply with paragraph 3.2.1 of the Code of Ethics: estate agents and salespersons should be fully conversant with the Estate Agents Ordinance, its subsidiary legislation, Code of Ethics, and other guidelines issued by the EAA from time to time and shall observe and comply with them in the course of their practice. The licensee was reprimanded and fined HK\$5,000. A condition was also attached to his licence, requiring him to obtain 12 points in the core subjects of the CPD Scheme in 12 months.

